

## Message Text

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44

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SUBJECT: HUMAN RIGHTS COMMISSION (HRC)-FUTURE PROGRAM OF WORK

1. US REP GARMENT DELIVERED STATEMENT FEB 23 ON SUBJECT ITEM.  
TEXT WILL BE REPEATED AT END OF THIS MESSAGE. REPS FROM  
SEVERAL DEVELOPING COUNTRIES EXPRESSED INTEREST IN PROPOSAL  
PUT FORWARD IN SPEECH THAT CONSIDERATION BE GIVEN TO  
CHANGING PROCEDURE BY WHICH MEMBERS OF COMMISSION ARE  
SELECTED. IN RESPONSE TO THESE INQUIRIES, USDEL WILL  
CONTINUE CONSULTATIONS TO DETERMINE IF THIS SESSION OF  
COMMISSION COULD MAKE A CONCRETE SUGGESTION ON THE SUBJECT  
OF ITS OWN MEMBERSHIP.

2. TEXT FOLLOWS: BEGIN TEXT:

STATEMENT ON WAYS AND MEANS OF IMPROVING HUMAN RIGHTS PROTECTION  
BY

LEONARD GARMENT  
UNITED STATES REPRESENTATIVE  
HUMAN RIGHTS COMMISSION  
FEBURARY 23, 1976

MR. CHAIRMAN,  
IN ANY YEAR AND UNDER ANY CIRCUMSTANCES THE DISCUSSION OF THE  
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"FUTURE WORK" OF THE COMMISSION WOULD AUTOMATICALLY BE  
IMPORTANT. THE ITEM, HOWEVER, IS PARTICULARLY IMPORTANT  
THIS YEAR. FOR THE WORK OF THIS COMMISSION, INDEED THE UNITE  
NATIONS ITSELF, IN THE AREA OF HUMAN RIGHTS IS AT THE

POINT OF CONTINUED SURVIVAL AND POSSIBLE SUCCESS, OR  
CONFIRMED DISREPUTE AND CERTAIN FAILURE.  
WHEN THE UNITED NATIONS WAS CREATED MORE THAN 30 YEARS AGO,  
IT WAS ASSUMED THAT THE PROMOTION AND PROTECTION OF HUMAN RIGHTS  
WOULD BE A MAJOR AREA OF ACTIVITY FOR THE ORGANIZATIONS AND  
A PRIMARY SOURCE OF ITS MORAL AUTHORITY IN WORLD AFFAIRS.  
THE OBSCURE AND ATROCIOUS ACTS THAT WERE SYSTEMATICALLY EMPLOYED  
TO DEVALUE INDIVIDUAL LIVES DURING THE WAR MADE SUCH FOCUS  
ON HUMAN RIGHTS INEVITABLE AND RIGHT. IF THE NEW ORGANIZATION  
WERE EITHER TO IGNORE THE INDIVIDUAL IN WORLD AFFAIRS, OR WORSE,  
GIVE LIP SERVICE TO THE IDEAL BUT IN THE END PROVE UNWILLING TO  
GIVE REAL PROTECTION TO INDIVIDUAL RIGHTS, THE UNITED NATIONS  
WAS NOT LIKELY TO ACHIEVE ANY OF ITS LONG-TERM GOALS. FROM  
THE START, THE IDEA OF A UNIVERSAL SYSTEM FOR THE PROTECTION OF  
HUMAN RIGHTS BOUND THE UNITED NATIONS STRUCTURE TOGETHER.  
THAT, IN ESSENCE, IS THE SOURCE OF THE CONTEMPORARY CRISES  
OF THE UNITED NATIONS. IT HAS SERVED THE IDEA OF THE STATE TOO  
WELL AND THE IDEA OF THE INDIVIDUAL NOT WELL ENOUGH. THIS  
DIVERGENCE FROM THE FOUNDING IDEALS EXTENDS THROUGHOUT THE  
SYSTEM OF INTERNATIONAL ORGANIZATIONS, BUT IN NO PLACE IS IT MORE  
GLARING AND LESS ACCEPTABLE THAN IN THE HUMAN RIGHTS COMMISSION.  
FOR THIS COMMISSION IS THE TRUSTEE OF THE UNITED NATIONS  
SYSTEM'S DECLARED BELIEF IN INDIVIDUAL RIGHTS, AND NO OTHER  
ORGAN OF THE UNITED NATIONS IS MORE VULNERABLE IF ITS IS MAN-  
IPULATED FOR STATE POLITICS IN THE NAME OF HUMAN RIGHTS.  
PERHAPS SOME OR EVEN MANY OF MY COLLEAGUES IN THIS ROOM WILL  
AGREE WITH ME SO FAR. THEY MAY FEEL, HOWEVER, THAT I AM BEING  
UNFAIR OR UNREALISTIC IN SETTING TOO HIGH A STANDARD FOR  
OUR WORK AND FAILING TO GIVE RECOGNITION TO THE PRACTICAL  
DIFFICULTIES, THAT IS THE POLITICAL FACTS, THAT PERMEATE EVERY  
DECISION TAKEN IN THIS ROOM. I ASSURE YOU I AM AWARE OF THESE  
DIFFICULTIES. I KNOW THAT AS PRESENTLY CONSTITUTED THIS BODY IS  
NOT CAPABLE OF CONSISTENTLY GIVING PRIORITY TO THE NEEDS AND  
RIGHTS OF INDIVIDUALS, IN THE PROCESS RIGOROUSLY SUB-  
ORDINATING THE POLITICAL OBJECTIVES OF THE STATES WE REPRESENT.  
NOR COULD I HONESTLY ADVOCATE A SYSTEM TOTALLY DIVORCED FROM  
CONTACT WITH THE POLITICAL REALITIES OF INTER-STATE AFFAIRS.  
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I COULD NOT BECAUSE IT IS NOT A POSSIBILITY.  
ALL OF WHICH IS TO SAY, QUITE SIMPLY, THAT THE HUMAN RIGHTS  
SYSTEM HAS DEMONSTRATED ITS IMPERFECTIONS. IT HAS NOT MEASURED  
UP TO THE EARLY HOPES. BUT THESE HOPES MAY WELL HAVE BEEN  
TOO HIGH, TOO NARROW, AND TOO ONE-SIDED. AND THERE IS NO REASON  
TO ALLOW FRUSTRATION TO DEGENERATE INTO SURRENDER. SO IT IS  
INCUMBENT ON ALL OF US, AND MOST OF ALL THOSE WHO ARE  
THE COMMISSION'S CRITICS TO DO WHAT WE CAN TO IMPROVE IT.  
A NUMBER OF QUESTIONS HAVE BEEN RAISED AND POSSIBLE REFORMS  
ADVANCED. SOME QUESTION THE WAY WE TAKE DECISION BY VOTE.  
OTHERS QUESTION THE PREPARATION OF OUR AGENDA AND THE REQUIREMENT  
THAT WE GIVE PRIORITY IN ORDER OF ITEMS TO THE CHOICES MADE  
BY THE GENERAL ASSEMBLY OR ECOSOC. SUGGESTIONS HAVE BEEN

MADE FOR THE CREATION OF AN EMERGENCY CAPABILITY, FOR MORE FREQUENT MEETINGS, FOR AN ENLARGEMENT OF THE SUBCOMMISSION STRUCTURE. I WILL RAISE A SINGLE QUESTION, NOT OF OUR PROCEDURES NOR OF OUR PLACE IN THE UNITED NATIONS SYSTEM, BUT OF OUR MEMBERSHIP.

I DO THIS NOT BECAUSE I THINK THAT INSTITUTIONAL ARRANGEMENTS AND PROCEDURES ARE UNIMPORTANT. INSTITUTIONS AND PROCEDURES SERVE TO IDENTIFY AND DETERMINE SUBSTANTIVE ISSUES. BUT MEN MAKE LAWS AND APPLY THEM, AND IT WOULD BE GROTESQUE IF IN THE HUMAN RIGHTS COMMISSION ITSELF WE FAILED TO ASK WHO ARE THE PEOPLE WHO MAKES THESE RULES? WHO INTERPRETS AND APPLIES THE STANDARDS? HOW ARE THEY CHOSEN? CAN THE SYSTEM OF SELECTION BE IMPROVED?

THESE ARE THE KIND OF QUESTIONS WE ARE PARTICULARLY ENTITLED, INDEED REQUIRED, PERIODICALLY TO ASK AND ANSWER.

LET ME SUGGEST THE OUTLINES OF AN IDEA FOR THE MEMBERS OF THIS COMMISSION TO CONSIDER AND PERHAPS PURSUE. I START BY REPEATING MY PREMISE: THIS COMMISSION SHOULD BE AMONG THE MOST IMPORTANT BODIES OF THE UNITED NATIONS. THE ROLE ASSIGNED TO THE UNITED NATIONS UNDER THE CHARTER TO PROMOTE HUMAN RIGHTS IS THE FOUNDATION OF THE HOPE OF ACHIEVING A DURABLE PEACE EVERYWHERE IN THE WORLD. AT THE SAME TIME, IT IS A ROLE WHICH TOUCHES UPON THE MOST SENSITIVE ASPECTS OF THE NATIONAL POLICIES OF EACH OF THE MEMBER GOVERNMENTS. CAN THERE BE ANY QUESTION, THEREFORE, THAT THE MANNER IN WHICH THIS COMMISSION FUNCTIONS SHOULD BE ONE OF CONTINUING CONCERN? AS FAR AS I HAVE BEEN ABLE TO DETERMINE NEVER IN ALL THE YEARS SINCE THIS COMMISSION WAS ESTABLISHED IN 1946 HAS THERE BEEN A

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SERIOUS EFFORT TO CONSIDER ITS BASIC STRUCTURE, USING THE EDUCATION OF EXPERIENCE TO DEVISE ORGANIZATIONAL IMPROVEMENTS. IT SEEMS CLEAR TO ME THAT THE EFFECTIVE FUNCTIONING OF THIS COMMISSION FUNDAMENTALLY DEPENDS ON OBJECTIVITY AND EVEN-HANDEDNESS. THIS IS THE HEART OF THE MATTER. TIME AND TIME AGAIN IN OUR DEBATE WE HAVE HEARD CHARGES OF POLITICIZATION; CHARGES OF DOUBLE STANDARDS. AND THERE IS NOT THE SLIGHTEST DOUBT THAT THESE CHARGES ARE VALID. THERE IS CASE AFTER CASE OF FLAGRANT HUMAN RIGHTS VIOLATIONS WHICH ARE EITHER PASSED OVER BY THIS COMMISSION OR RECEIVE TOKEN ATTENTION. OR SO MANY PROCEDURAL OBJECTIONS ARE INTERPOSED THAT SERIOUS CHARGES AGAINST PARTICULAR STATES GROW STALE. THEN NEW VIOLATIONS OCCUR IN THAT VERY SAME STATE, ARE UNIVERSALLY KNOWN AND NOTED, BUT WE DECLINE TO ACT OR EVEN TAKE NOTICE. THIS, I NOTE PARANTHETICALLY, CAN BE EASILY REMEDIED BY AUTHORIZING THE SECRETARY-GENERAL TO REFER DIRECTLY TO THE HUMAN RIGHTS COMMISSION AND ITS WORKING GROUP ANY ADDITIONAL COMMUNICATION RELATING TO A SITUATION ALREADY REFERRED TO THE COMMISSION BY THE SUBCOMMISSION. I KNOW THAT MANY OF THE PROBLEMS THAT PRODUCE THESE ANOMALIES ARE NOT SO EASILY SOLVED. BUT I AM CONVINCED THAT THE SITUATION WOULD BE VASTLY IMPROVED IF MEASURES WERE TAKEN TO REMOVE THE COMMISSION AS COMPLETELY AS POSSIBLE FROM THE PRESSURE OF

POLITICS. THIS COMMISSION WILL HAVE NO LASTING IMPACT, INDEED, IT CANNOT HOPE TO MAINTAIN WHAT PRESTIGE AND AUTHORITY IT MAY STILL HAVE, IF IT CONTINUES TO USE HUMAN RIGHTS AS A POLITICAL WEAPON. OUR DUTY IS TO WORK TO ABATE HUMAN SUFFERING. THIS SHOULD BE THE OVERRIDING CRITERION FOR OUR ACTION. IT IS NOT NOW. HOW CAN THE COMMISSION BE MADE LESS POLITICAL? SIMPLY, I SUGGEST, BY MAKING IT MORE INDEPENDENT AND MORE EXPERT. WE CAN LEARN A GREAT DEAL FROM THE EXPERIENCE OF THE REGIONAL HUMAN RIGHTS ORGANS, ESPECIALLY THE STRUCTURE FUNCTIONING UNDER THE COUNCIL OF EUROPE. WOULD IT NOT BE APPROPRIATE THAT WE TRY TO FIND A SYSTEM FOR SELECTING THE MEMBERSHIP OF THIS COMMISSION IN A WAY THAT WOULD RESULT IN A BODY WHOSE MEMBERS WOULD OPERATE AS FAR AS POSSIBLE AS INDEPENDENT EXPERTS, FREE FROM THE DIRECT POLITICAL CONSTRAINTS THAT WEIGH ON GOVERNMENTAL EMPLOYEES WHEN THEY SIT IN POLITICAL ORGANS OF THE UNITED NATIONS. FOR EXAMPLE, SHOULD NOT BE GIVEN TO STRENGTHENING THE MEMBERSHIP REQUIREMENTS SO THAT ONLY HUMAN RIGHTS EXPERTS, SUCH AS PERSONS WHO HAVE HAD EXPERIENCE IN THE JUDICIARIES OF THEIR NATIONAL GOVERNMENTS, CAN QUALIFY FOR MEMBERSHIP

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ON THIS COMMISSION? SHOULD NOT CONSIDERATIONS BE GIVEN TO REQUIRING THAT REPRESENTATIVES TO THE HUMAN RIGHTS COMMISSION NOT BE PRESENTLY EMPLOYED AS POLITICAL OFFICIALS OF THEIR GOVERNMENT? (BY THIS I MEAN EMPLOYMENT IN THE EQUIVALENT OF THE EXECUTIVE BRANCH OF THE UNITED STATES.) AND TO FURTHER ASSURE THAT THE CHOICE OF MEMBERSHIP WOULD BE AS FREE AS POSSIBLE OF POLITICAL CONSIDERATIONS, WOULD IT NOT BE POSSIBLE TO DESIGN A SYSTEM OF SELECTION THAT WOULD USE AGENCIES SUCH AS THE SECRETARY-GENERAL OF THE UNITED NATIONS, OR THE INTERNATIONAL COURT OF JUSTICE, OR THE TWO WORKING IN CONSULTATION, AS THE ULTIMATE SELECTING BODY. STATES MEMBERS WOULD SUBMIT PANELS OF QUALIFIED PERSONS; AND THE EXISTING GEOGRAPHICAL DISTRIBUTION OF SEATS WOULD OF COURSE BE MAINTAINED. THESE ARE ONLY PRELIMINARY THOUGHTS ON A FAIRLY AMBITIOUS STEP THAT WOULD REQUIRE ACTION OUTSIDE THIS COMMISSION-- PRESUMABLY IN ECOSOC. BUT WE ARE TALKING ABOUT WAYS AND MEANS OF IMPROVING THE PROMOTION OF HUMAN RIGHTS. AND I SUBMIT THAT GENUINE EFFORT TO LESSEN THE PRACTICAL EMPHASIS OF THIS, THE PRINCIPAL UNITED NATIONS ORGAN IN THE HUMAN RIGHTS FIELD WOULD NOT ONLY BE A SIGNAL OF OUR INTENT TO IMPROVE OUR WORK, BUT WOULD ALSO BE A SPECIFIC MEANS OF ACHIEVING THAT OBJECTIVE. END TEXT. DALE

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